

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

DWAYNE M. CHATMAN §

VS. § **CIVIL ACTION NO. 5:07cv177**

**COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION** §

MEMORANDUM ORDER

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Plaintiff filed objections to the Report and Recommendation. The Court conducted a *de novo* review of the Magistrate Judge's findings and conclusions.

Plaintiff objects to the Magistrate Judge's recommendation that Plaintiff's above-entitled and numbered social security cause of action be affirmed. Specifically, Plaintiff asserts the Report and Recommendation failed to give proper weight to the Ability to Do Work-Related Activities medical opinion. Plaintiff asserts there are documents from Dr. Charles Marrow which substantiate the fill-in-the-blank Ability to Do Work-Related Activities form.

On page 22 of the Report and Recommendation, the Magistrate Judge noted that the Administrative Law Judge ("ALJ") considered the declarations and the form from Dr. Marrow and explained the reasons he found them unsupported and contradicted by other medical opinions of record. The Court agrees with the Magistrate Judge that substantial evidence, including treatment records, examination findings, test results, and the March 17, 2004 rating decision from the

Department of Veteran's Affairs, supports the ALJ's decision that Plaintiff retained the residual functional capacity evaluation to perform medium level work. The Court is also not convinced the ALJ erred in not calling an ALJ to testify at the hearing.

After reviewing the transcript, the briefs of the parties, and the Report and Recommendation, the Court finds Plaintiff's objections are without merit. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that the above-entitled Social Security action is **AFFIRMED**.

SIGNED this 26th day of February, 2009.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE